

## APPEAL PANEL DECISION FORM

### I. CLAIMANT AND CLAIM INFORMATION

|                      |   |                     |                      |
|----------------------|---|---------------------|----------------------|
| <b>Claimant Name</b> | Last/Name of Business<br>████████████████████ | First<br>██████████ | Middle<br>██████████ |
| <b>Claimant ID</b>   | ██████████                                    | <b>Claim ID</b>     | ██████████           |
| <b>Claim Type</b>    | Business Economic Loss                        |                     |                      |
| <b>Law Firm</b>      | ████████████████████                          |                     |                      |

### II. DECISION

Select the Compensation Amount set forth in either BP's Final Proposal or the Claimant's Final Proposal as the final outcome on the claim and check the appropriate box to signify your decision.

|  |                              |                     |
|--|------------------------------|---------------------|
| <input type="checkbox"/> <b>BP's Final Proposal</b>                  | <b>Compensation Amount</b>   | <b>\$45,499</b>     |
|  | <b>Risk Transfer Premium</b> | <b>1.50</b>         |
|  | <b>Prior Payment Offset</b>  | <b>\$0</b>          |
| <input checked="" type="checkbox"/> <b>Claimant's Final Proposal</b> | <b>Compensation Amount</b>   | <b>\$123,989.29</b> |
|  | <b>Risk Transfer Premium</b> | <b>1.50</b>         |
|  | <b>Prior Payment Offset</b>  | <b>\$0</b>          |

### III. PRIMARY BASIS FOR PANELIST DECISION

Please select the primary basis for your decision. You may also write a comment describing the basis for your decision.

- Error in documentation review.**
- Error in calculation.**
- Error in RTP multiplier.**
- Error in Prior Spill-Related Payment Amount.**
- No error.**

**Comment** *(optional)*:

The Claims Administrator awarded \$123,989.29 to the owner of a commercial shopping center in ██████████ (Zone A). BP appeals, arguing that the Administrator should not have included reimbursements for real estate taxes, insurance and common area maintenance in the calculation of revenue. BP contends that these expenses are in the nature of “pass through” reimbursements that are not typically treated as revenue pursuant to the Administrator’s Policy 328 v.2. Because the Administrator treated the actual real estate tax, insurance and maintenance costs as fixed expenses, this skewed Claimant’s variable profit and inflated the award according to BP.

The record demonstrates that the program accountant closely examined these three categories of reimbursements. The Contact Notes reflect that the accountant obtained a yearly total for each category and then created contra accounts that distributed the annual totals evenly throughout the year. Further, the P&Ls submitted by the Claimant reflect that certain tenants paid monthly estimates for these expense categories while the amounts for other tenants were accrued, paid at year’s end and then shown as prior year adjustments in the following year. The program accountant was clearly satisfied with the nature of these expenses and the methods utilized by the Claimant in recording reimbursements. From the record, it is less than clear that these expenses are clear and direct pass through expenses. The program accountant was in the best position to make this determination. BP has demonstrated no basis for remand. The award is affirmed.